

Remarks/Arguments

In the Office Action, claims 1, 5, 7, 9-11, 24, 32, 35, and 43 have been amended. No new matter has been added as a result of these amendments. No claims have been added or cancelled. Thus, claims 1-11 and 22-45 are currently pending.

The amendments to the claims are made only to place the claims in what Applicants consider to be better form, not in response to the rejections. No amendment is believed to have been necessitated by the rejections. Applicants therefore, reserve all rights with respect to the applicability of the Doctrine of Equivalents.

Claim Rejections Under 35 U.S.C. §101

Examiner has rejected claims 1-11 and 22-45 under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. The Examiner states that independent claims 1, 24, and 35 present an abstract idea without any practical application that produces a useful, concrete and tangible result. The Examiner states that “[e]ven though managing a file system for a file server could reasonably be considered a tangible result, the body of claims 1, 24, 35 do not appear to actually support the preamble by including a step or steps which accomplish that act.” (Office Action dated 03/16/06, p. 2, ¶2).

Applicants respectfully submit that independent claims 1, 24, and 35, as amended, recite the limitation of “subtracting from the first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to accommodate the file size.” (Emphasis Added). As such, the independent claims 1, 24, and 35 include steps to accomplish the determination of a

number of unallocated blocks to be reserved to accommodate the file size, which Applicants respectfully submit, is a useful, concrete and tangible result.

Therefore, independent claims 1, 24, and 35 and associated dependent claims 2-11, 22-23, 25-34, and 36-45 are directed to proper statutory subject matter and Applicants respectfully request the withdrawal of the rejection of the claims under 35 U.S.C. § 101.

Claim Rejections under 35 U.S.C. §112

Examiner has rejected claims 1, 24, and 35 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter Applicants regard as the invention. Applicants have amended the claims 1, 24, and 35 to recite a “first number of blocks,” as required by the Examiner. Applicants respectfully submits that claims 1, 24 and 35, as amended, satisfy the requirements of 35 U.S.C § 112, second paragraph and respectfully requests the withdrawal of the rejection of the claims under § 112.

Claim Rejections Under 35 U.S.C. §103(a)

Claims 1, 4, 6-10, 24, 27, 29-33, 35, 38 and 40-44

Claims 1, 4, 6-10, 24, 27, 29-33, 35, 38 and 40-44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schmuck et al. (USPN 5,956,734, “Schmuck”) in view of Nazari et al. (USPN 6,516,344, “Nazari”).

Independent claims 1, 24, and 35 recite computing a first number of blocks needed to accommodate the file size, and subtracting from the first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to accommodate the file size.

With respect to the corresponding limitations in the previous listing of the claims, the
Examiner states:

Schmuck teaches ... adjusting the number of reserved unallocated blocks (i.e. how much free space remains in each region, col. 19, lines 10-30). Schmuck does not specifically teach the following limitation. However, Nazari teaches: subtracting from the number of blocks needed to write the file a second number of blocks already allocated for the file (i.e. the shaded portion of the file 300, See Fig. 3) to obtain a third number of blocks (col. 4., line 67 to col. 5, line 3); subtracting from the third number of blocks a number of delayed allocated blocks (i.e. unallocated region 303, See Fig. 3) for the file obtain a fourth number of blocks (col. 4, line 67 to col. 5, line 3).

(Office Action dated 03/16/06, p. 4, ¶5).

Schmuck discloses a parallel file system with a quota check utility. (Schmuck, Abstract).
As acknowledged by the Examiner, Schmuck does not teach or suggest subtracting from the first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to accommodate the file size, as claimed.

Applicants respectfully submit that Nazari does not supply the missing limitations. In the portions cited by the Examiner and elsewhere, Nazari reads as follows:

FIG. 3 illustrates a file 300 containing unallocated regions 302 in accordance with an embodiment of the present invention. When file 300 is initially created for random accesses, none of the regions of file 300 are allocated. As regions of file 300 are written to during execution of application 203, regions of file 300 become allocated (see shaded portions), and the other regions remain unallocated. Note that a file may include a number of contiguous unallocated regions separated by allocated regions.

(Nazari, col. 4, line 61 to col. 5, line 3).

Thus, Nazari discloses only that unallocated regions of a file become allocated as regions of the file are written to. Nazari does not teach or suggest subtracting from a first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to

accommodate the file size, as claimed. Thus, Schmuck and Nazari, either individually or in combination, do not teach or suggest each and every limitation of claims 1, 24, and 35.

Second, in addition to maintaining that the Examiner's combination does not teach or suggest all elements in Applicants' claims, Applicants respectfully submit that the Examiner has not adequately shown a motivation required to combine Schmuck with Nazari. The law requires to prevent the use of hindsight an examiner "must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed." In re Rouffet, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998.) (emphasis added) (Also see MPEP 2142 as well as MPEP 2145). The Examiner states:

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references because Nazari's teachings "subtracting from the number of blocks needed to write a file a second number of blocks already allocated for the file to obtain a third number of blocks; and subtracting from the third number of blocks a number of delayed allocated blocks for the file to obtain a fourth number of blocks" would have allowed Nazari's users to ensure that storage device contains enough storage for the write operation.

(Office Action dated 03/16/06, p. 5, ¶5) (emphasis added).

Applicants respectfully submit that the purpose of Nazari is not to ensure that a storage device contains enough storage for the write operation, but rather that unnecessary overhead is not generated in processing accesses to unallocated regions within a file located on a remote server, while accessing the file. (Nazari, col. 1, lines 57-60). Thus, the motivation stated by the Examiner to modify the teachings of Schmuck with Nazari's disclosure is not provided by the prior art. The Examiner appears to have merely taken a desired end result, as recited in Applicants' claims, and stated that a combination of Schmuck and Nazari achieves this end result. Such a position is impermissible hindsight. Applicants understand that "[a]ny judgment

on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning,” and is appropriate only when it “does not include knowledge gleaned only from applicant's disclosure.” *In re McLaughlin*, 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971). For this additional reason, therefore, the rejection is improper and should be withdrawn.

Claims 2, 5, 25, 28, 36 and 39

Claims 2, 5, 25, 28, 36 and 39 under 35 U.S.C. §103(a) as being unpatentable over Schmuck in view of Nazari and further in view of Hitz et al. (USPN 5,963,962, “Hitz”).

Hitz discloses keeping a file system in a consistent and creating read-only copies of the file system. (Hitz, Abstract). Hitz is silent about and does not teach or suggest “subtracting from the first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to accommodate the file size,” as claimed in independent claims 1, 24, and 35.

As none of Schmuck, Nazari and Hitz teaches “subtracting from the first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to accommodate the file size,” as claimed in independent claims 1, 24, and 35, the combination cannot be interpreted to disclose the claimed element.

Therefore, the combination cannot render obvious Applicants’ invention as claimed in associated dependent claims 2, 5, 25, 28, 36 and 39, and Applicants respectfully request the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

Claims 3, 26 and 37

Claims 3, 26 and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schmuck in view of Nazari and further in view of Keller et al. (USPN 6,473,849, “Keller”).

Keller discloses synchronizing processes within a distributed memory multiprocessing system. (Keller, Abstract). Keller is silent about and does not teach or suggest “subtracting from the first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to accommodate the file size,” as claimed in independent claims 1, 24, and 35.

As none of Schmuck, Nazari and Keller teaches “subtracting from the first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to accommodate the file size,” as claimed in independent claims 1, 24, and 35, the combination cannot be interpreted to disclose the claimed element.

Therefore, the combination cannot render obvious Applicants’ invention as claimed in associated dependent claims 3, 26, and 37, and Applicants respectfully request the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

Claims 11, 22, 23, 34 and 45

Claims 11, 22, 23, 34 and 45 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schmuck in view of Nazari and further in view of Bonwick (USPN 6,725,244).

Bonwick discloses allocating file descriptors by storing them in a tree-like data structure. (Bonwick, Abstract). Bonwick is silent about and does not teach or suggest “subtracting from

the first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to accommodate the file size,” as claimed in independent claims 1, 24, and 35.

As none of Schmuck, Nazari and Bonwick teaches “subtracting from the first number of blocks a second number of blocks already allocated for the file and a third number of delayed allocated blocks for the file to obtain a fourth number of unallocated blocks to be reserved to accommodate the file size,” as claimed in independent claims 1, 24, and 35, the combination cannot be interpreted to disclose the claimed element.

Therefore, the combination cannot render obvious Applicants’ invention as claimed in associated dependent claims 11, 22, 23, 34 and 45, and Applicants respectfully request the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

Conclusion

Applicants respectfully submit that in view of the amendments and discussion set forth herein, the applicable rejections have been overcome. Accordingly, the present and amended claims should be found to be in condition for allowance.

If a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Jordan Becker at (408) 720-8300. If there are any additional charges/credits, please charge/credit our deposit account no. 02-2666.

Respectfully submitted,
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